

significant number of applicants, he/she shall take the complaint and follow up on the complaint as follows: for a complaint against an employer, the regional office shall handle the complaint in a manner consistent with the requirements imposed upon State agencies by §§ 658.413 and 658.416 of this part. A hearing shall be offered to the parties once the Regional Administrator makes a determination on the complaint. For a complaint against a State agency, the regional office shall follow procedures established at § 658.702(c).

§ 658.424 Federal hearings.

(a) If a party requests a hearing pursuant to § 658.421 (d), (f), or (h) or § 658.423, the Regional Administrator shall:

(1) Send the party requesting the hearing and all other parties to the prior State agency hearing, a written notice containing the statements set forth at § 658.416(e);

(2) Compile four hearing files containing copies of all documents relevant to the case, indexed and compiled chronologically;

(3) Send simultaneously one hearing file to the DOL Chief Administrative Law Judge, 800 K Street, NW., suite 400, Washington, DC 20001-8002, one hearing file to the Administrator, and one hearing file to the Solicitor of Labor, Attn: Associate Solicitor for Employment and Training Legal Services, and retain one hearing file.

(b) Upon the receipt of a hearing file, the DOL Administrative Law Judge designated by the Chief Administrative Law Judge shall notify the party requesting the hearing, all parties to the prior State hearing official hearing (if any), the State agency, the Regional Administrator, the Administrator, and the Solicitor of the receipt of the case. The DOL Administrative Law Judge shall afford the non-Federal parties 20 working days to submit legal arguments and supporting documentation, if any, in the case. The DOL Administrative Law Judge shall afford the Solicitor 20 working days to submit legal arguments and supporting documentation, if any, in the case on behalf of the Federal parties. After the 20 working days elapse, the Hearing Officer shall

decide whether to schedule a hearing, or make a determination on the record.

(c) The DOL Administrative Law Judge may decide to conduct hearings on more than one complaint concurrently if he/she determines that the issues are related or that the complaints will be handled more expeditiously in this fashion.

(d) At the DOL Administrative Law Judge's discretion, other appropriate individuals, organizations, or associations may be permitted to participate in the hearing as *amicus curiae* with respect to specific legal or factual issues relevant to the complaint. Any documents submitted by the *amicus curiae* shall be included in the record.

(e) The following standards shall apply to the location of hearings involving parties in more than one State or in locations which are within a State but which are separated geographically so that access to the hearing location is extremely inconvenient for one or more parties as determined by the Administrative Law Judge.

(1) Whenever possible, the Administrative Law Judge shall hold a single hearing, at a location convenient to all parties or their representatives wishing to appear and present evidence, and with all such parties and/or their representatives present.

(2) If a hearing location cannot be established by the Administrative Law Judge at a location pursuant to paragraph (e)(1) of this section, the Administrative Law Judge may conduct, with the consent of the parties, the hearing by a telephone conference call from an office with all parties and their representatives not choosing to be present at that location permitted to participate in the hearing from their distant locations.

(3) Where the Administrative Law Judge is unable to locate facilities to conduct hearings by telephone pursuant to paragraph (e)(1) or (e)(2) of this section, the Administrative Law Judge shall take evidence in the States where the parties are located and hold the hearing in the same manner as used for appealed interstate unemployment claims in those States, to the extent that such procedures are consistent with § 658.416.

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(f) The DOL Administrative Law Judge shall:

(1) Notify all involved parties of the date, time and place of the hearing; and

(2) Re-schedule the hearing, as appropriate.

(g) In conducting a hearing the DOL Administrative Law Judge shall:

(1) Regulate the course of the hearing;

(2) Issue subpoenas if necessary;

(3) Consider all relevant issues which are raised;

(4) Rule on the introduction of evidence and testimony;

(5) Take any other action which is necessary to insure an orderly hearing.

(h) The testimony at the hearing shall be recorded, and shall be transcribed if appropriate.

(i) The parties to the hearing shall be afforded the opportunity to present, examine, and cross-examine witnesses. The DOL Administrative Law Judge may elicit testimony from witnesses, but shall not act as advocate for any party.

(j) The DOL Administrative Law Judge shall receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the documentary evidence, to any part to the hearing upon request.

(k) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(l) The case record, or any portion thereof, shall be available for inspection and copying by any party to the hearing at, prior to, or subsequent to the hearing upon request. Special procedures may be used for disclosure of medical and psychological records such as disclosure to a physician designated by the individual concerned.

(m) The DOL Administrative Law Judge shall, if feasible, encourage reso-

lution of the dispute by conciliation at any time prior to the conclusion of the hearing.

[45 FR 39468, June 10, 1980, as amended at 56 FR 54708, Oct. 22, 1991]

§ 658.425 Decision of DOL Administrative Law Judge.

(a) The DOL Administrative Law Judge may:

(1) Rule that there is a lack of jurisdiction over the case;

(2) Rule that the appeal has been withdrawn properly and in writing, with the written consent of all the parties;

(3) Rule that reasonable cause exists to believe that the appeal has been abandoned or that repeated requests for re-scheduling are arbitrary and for the purpose of unduly delaying or avoiding a hearing; or

(4) Render such other rulings as are appropriate to the issues in question. However, the DOL Administrative Law Judge shall not have jurisdiction to consider the validity or constitutionality of JS regulations or of the Federal statutes under which they are promulgated.

(b) Based on the entire record, including any legal briefs, the record before the State agency, the investigation (if any) and determination of the Regional Administrator, and evidence provided at the hearing, the DOL Administrative Law Judge shall prepare a written decision. The DOL Administrative Law Judge shall send a copy of the decision stating the findings and conclusions of law and fact and the reasons therefor to the parties to the hearing, including the State agency, the Regional Administrator, the Administrator, and the Solicitor, and to entities filing amicus briefs (if any).

(c) The decision of the DOL Administrative Law Judge shall be the final decision of the Secretary.

§ 658.426 Complaints against USES.

Complaints alleging that an ETA regional office or the national office of USES has violated JS regulations should be mailed to the Assistant Secretary for Employment and Training, U.S. Department of Labor, Washington, DC 20210. Such complaints should include: